

## Day 1 & 2 - Principles of the Constitution

**Entrance task:** Pick up a Constitutional Principles packet from the stand before you sit down.

**Today:** Principles of the Constitution

**Homework:** NONE!!!

## Principles of the US Constitution

### 1. Popular sovereignty

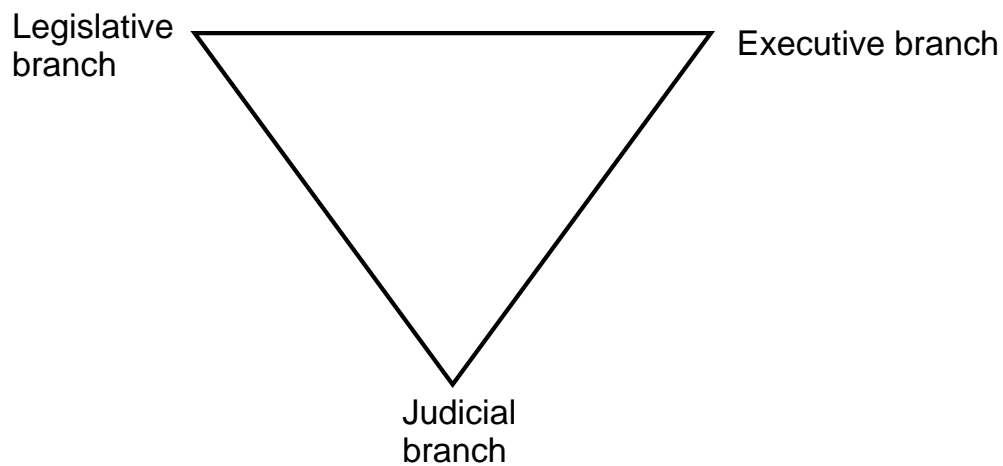
CW p. 2

- a. Stated in the Preamble “We the People . . . do ordain and establish this Constitution”
- b. Power comes from the People
- c. “Social Contract”

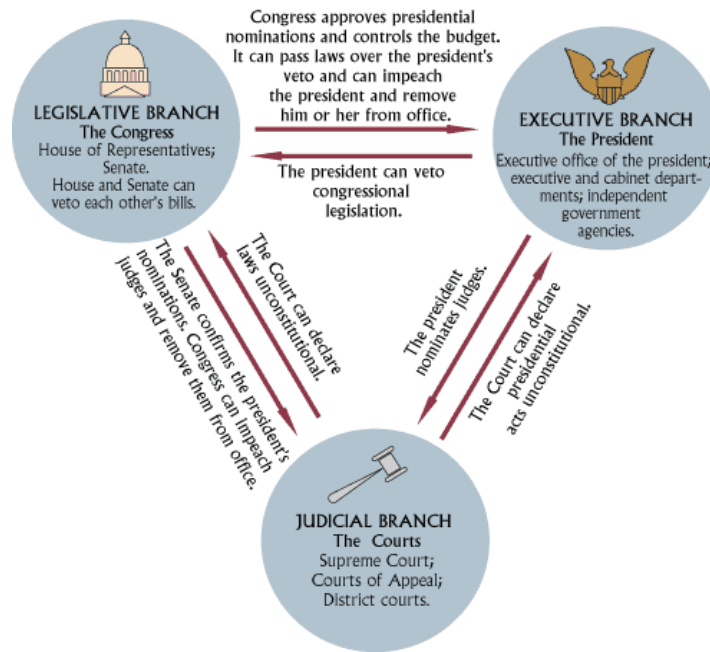
# Principles of the US Constitution

## 2. Separation of Powers

- a. Three branches – Montesquieu
- b. Restricted power of a central government so it separated
- c. Diagram this idea:



## Principles of the Constitution



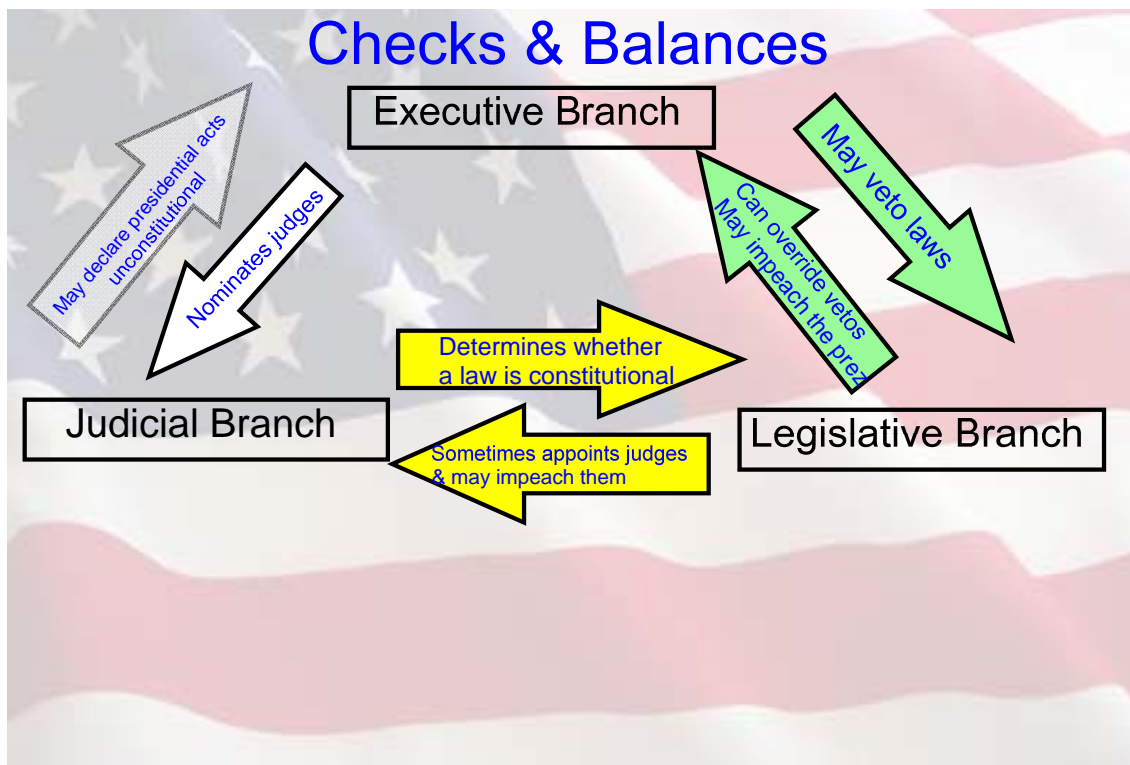
## Principles of the US Constitution

### 3. Checks and Balances

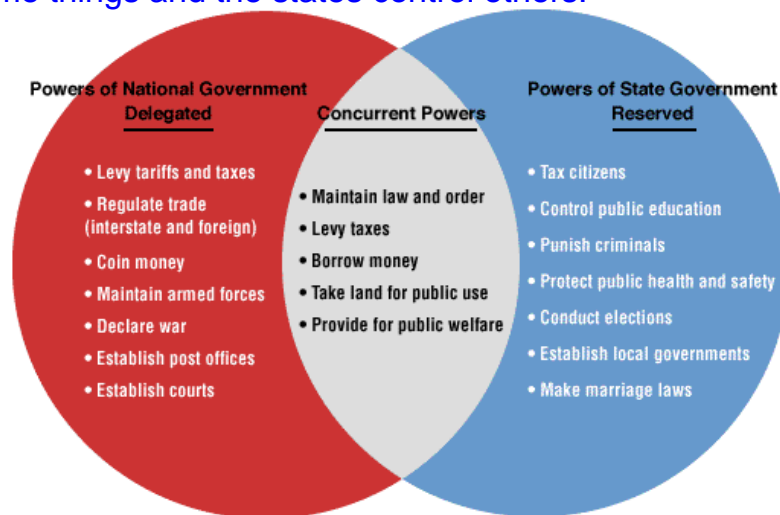
Each branch had "power" to restrict another

- \*The President can veto laws but Congress can override the veto with a 2/3 vote.
- \* The President and Congress may agree on a law but the Supreme Court can declare a law unconstitutional.
- \* The President can appoint Judges and other government officials but Senate must approve them.
- \* Supreme Court judges have life terms but they can be impeached .

## Principles of the Constitution



4. **FEDERALISM** - division of power where federal government controls some things and the states control others.

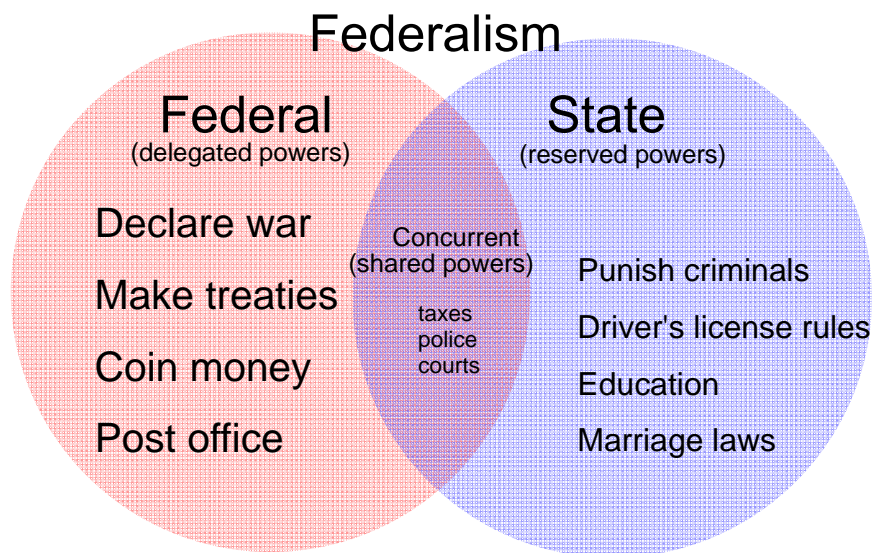


## Types of power

**Delegated powers:** Also called *enumerated* - these powers are given to the **federal** government  
- declare war, coin money, post office, etc.

**Reserved powers:** Also called *residual* - are powers not given to the federal government and reserved for the **states**

**Concurrent Powers:** Shared between the fed. and state



## Principles of the Constitution

**Implied powers:** powers that were not specifically written in the Constitution but were assumed. Article I, Section 8, Clause 18 - "*necessary and proper*" clause, also known as the *elastic clause*

Examples: US Postal Service, regulate telecommunications, build federal highways

## Principles of the US Constitution

### 5. Supremacy of National Law

- In case of conflicting laws/actions between state and federal levels, the federal govt. and Constitution are supreme.

i.e. Arizona immigration laws  
Colorado marijuana laws

1. WA - Attorney General will not challenge state marijuana laws 2:22
2. High Court refuses to challenge CA marijuana law 2:30

## Principles of the US Constitution

### 6. Limitations of the Power of Government

- a. Reserved powers
- b. Checks and balances
- c. **Bill of Rights**
- d. Elections

## Principles of the US Constitution

### 7. Orderly Change

- a. Elections
- b. Amendment process allows for orderly change
- c. Succession outlined in Article II, Section 1, Clause 6 and Amendment 25
  - 1. Vice-President 2. Speaker of the House,
  - 3. President pro tempore of the Senate,
  - 4. Secretary of State, 5. Secretary of the Treasury,
  - 6. Secretary of Defense,
  - 7. Attorney General, 8. Secretary of the Interior, 9. Secretary of Agriculture,
  - 10. Secretary of Commerce, 11. Secretary of Labor, 12. Secretary of Health & Human Services, 13. Secretary of Housing & Urban Development, 14. Secretary of Transportation,
  - 15. Secretary of Energy, 16. Secretary of Education, 17. Secretary of Veterans' Affairs,
  - 18. Secretary of Homeland Security



## Principles of the US Constitution

### 8. Flexibility

- a. Wording intentionally undefined
- b. Elastic Clause -- Congress may make any law which is "necessary and proper"
- c. General welfare clause
- d. Amendment process
- e. Interpretation may be strict (literal) or loose (what is the intent?)

Examples: Alexander Hamilton - National Bank  
Thomas Jefferson - Louisiana Purchase

## Principles of the US Constitution

### 9. Undemocratic features

- a. At first, only HofR was popularly elected
- b. No Bill of Rights
- c. Vice President was chosen by the electoral college

Still in practice today:

- a. Electoral college determines who becomes president
- b. Judges at federal level are appointed, not elected.



## Matrix for Understanding the Bill of Rights

1. Turn to page 10 in the classwork packet
2. Examine the photographs that are passed around the class,
3. Discuss each photograph with your buddies and determine the **RIGHT** that is represented and the **AMENDMENT** that protects that right.

## Principles of the Constitution

**Homework:** Page 5 in packet

# Matrix for Understanding the Bill of Rights

A.



4th Amendment  
Protection against  
unreasonable search  
and seizure

Pull

## Principles of the Constitution

B.

<http://www.grandviewschools.org/Word/images/chair.jpg>



This is an example of an electric chair where some death row inmates are executed.

[http://abailaway.com/images/neon\\_bail\\_bonds.139214608\\_std.jpg](http://abailaway.com/images/neon_bail_bonds.139214608_std.jpg)



Pull

8th Amendment -  
protection against  
excessive bail and cruel  
and unusual punishment

C.



7th Amendment -  
Right to jury trial in  
civil cases

Pull

## Principles of the Constitution

D.

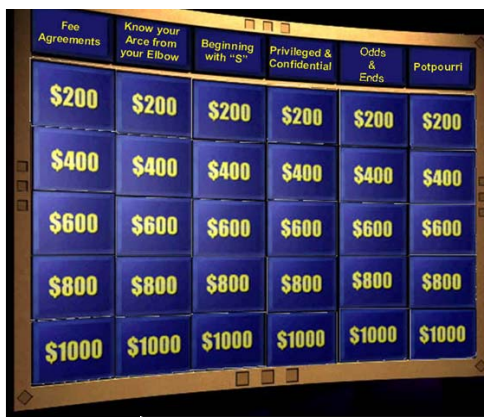


<http://filipspace.com/2008/03/santa.jpg>  
[hate-speech-is-not-free-speech.com/](http://hate-speech-is-not-free-speech.com/)

[amazonaws.com/28/files/2008/03/santa.jpg](http://amazonaws.com/28/files/2008/03/santa.jpg)

1st Amendment -  
Freedom of speech

Pull



<http://www.lucente.org/blog/media/1/20060726-05.12.11.EminentDomain->



E.

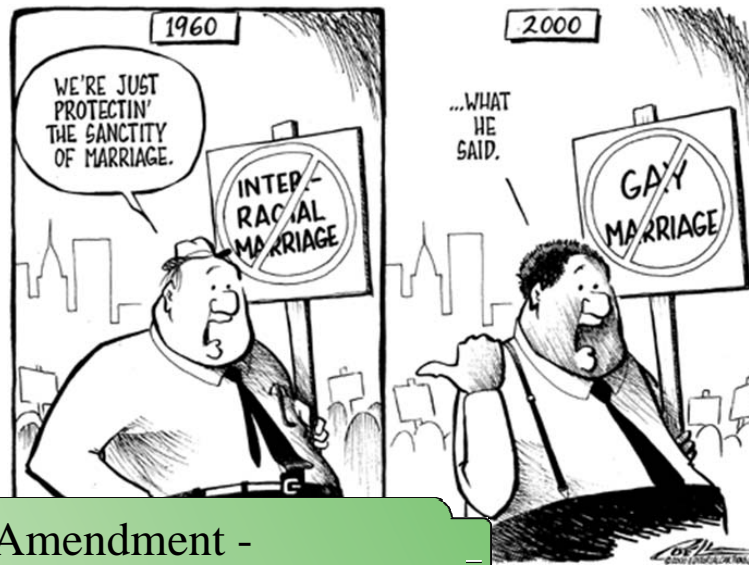
5th Amendment - Rights  
of the accused (no double  
jeopardy), and  
eminent domain

Pull



## Principles of the Constitution

F



9th Amendment -  
Unenumerated rights  
Rights not mentioned in the  
Bill of Rights

Pull

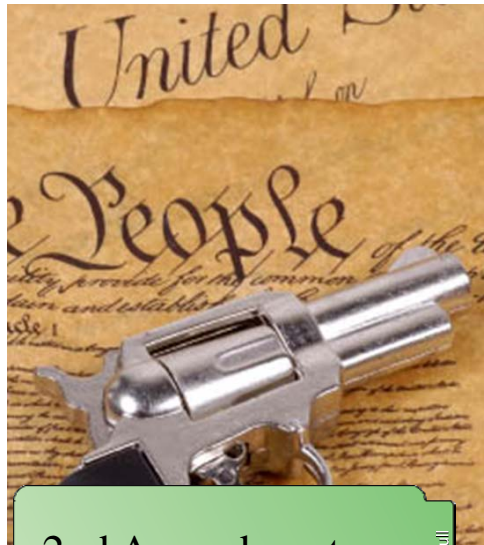
G.



3rd Amendment -  
Military base  
No quartering troops

Pull

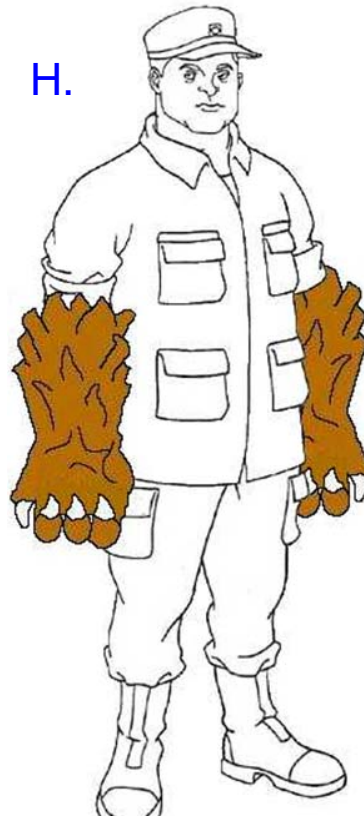
## Principles of the Constitution



2nd Amendment -  
Right to bear arms

Pull

H.



I.



10th Amendment -  
Powers reserved to states  
(education, i.e.)

Pull



## Principles of the Constitution

J.



6th Amendment -  
Right to confront  
witnesses

Pull



## *Constitutional Principles*

Entrance Task: *Think: Are there any aspects of the US government that are not expressed in the US Constitution?*

Today: *The Unwritten Constitution*

Homework: *Read page 7 in packet*

## Principles of the Constitution

### 9. Undemocratic Features

Page 4

#### a. Originally:

1. Only House of Representatives were popularly elected, Senators were chosen by state legislatures
2. No Bill of Rights
3. Vice-President chosen by the electoral college

#### b. Still in practice today:

1. Electoral College is the final determinant of who becomes president
2. Judges at the federal level are not elected; the President nominates and the Senate approves them. State judges are elected or appointed and district attorneys are elected

## Parts of the US Constitution

Page 6

**A. Preamble:** We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

**B. The Constitution also contains the following Articles:**

1. Article I: Legislative Branch
2. Article II: Executive Branch
3. Article III: Judicial Branch
4. Article IV: Relations Among the States
5. Article V: Provisions for Amendment
6. Article VI: National debts, Supremacy of National Law, Oath
7. Article VII: Ratification of the Constitution

## Principles of the Constitution

### C. Bill of Rights

- a. Federalists: Believed that the Constitution should be ratified without the Bill of Rights
  - i. Famous Federalists include James Madison & John Adams
- b. Anti-Federalists: Believed that the Constitution should only be ratified with the inclusion of the Bill of Rights
  - i. Famous Anti-Federalists include Thomas Jefferson & Benjamin Franklin

### D. The other 17 **Amendments** deal with specific issues and situations particular to the time period and events that occurred in the United States.

- a. Amendments 13, 14, 15 – Civil War Amendments
- b. Amendments 16, 17, 18, 19 – Progressive Era Amendments
- c. Amendments 20, 22, 23, 24, 25, 26 – Election Amendments

*\* the 21st Amendment repealed the 18th Amendment (prohibition)*

## True or False

1. The Constitution created political parties.
2. The Constitution limited the term of the president to two terms.
3. The various department the US government were created in the Constitution.

## Principles of the Constitution

### The Unwritten Constitution



Refers to the ideas and processes that are accepted as a needed part of American government, regardless of the fact that they are not actually in the Constitution. These ideas and processes came about through the custom and precedent. Many aspects of the unwritten Constitution are so ingrained into our system that many do not even realize that they are not laws or provisions of the Constitution.

The **Cabinet** The Constitution gave the President power to **appoint** people to assist him. Washington and later Presidents came to rely on these people – known as the Cabinet – for advice.



**Political Parties** The Constitution does not specifically mention political parties, although these now play an important role in our system of government. The 2-major parties today are:

**Democrats & Republicans**



Page  
8

### THE UNWRITTEN CONSTITUTION

**Judicial Review** The Supreme Court has the power to review **federal** and **state** laws to determine if they are permissible under the U.S. Constitution. In other words, they determine whether a law is **constitutional** or **unconstitutional**.

#### **Congressional Committees**

These help Congress select the most important bills out of thousands proposed. Committees hold hearings, discuss and evaluate each bill.



#### **The Electoral College Promise**

Originally the Electoral College voted on its own. From 1842 onward, electors vote by state according to the majority of the popular vote. This is not in the constitution, but is a promise and historical precedent.



#### **Term Limits for President**

Originally this was not in Constitution, but the first US president George Washington set the precedent. The 22<sup>nd</sup> amendment in 1951 set the two-term limit, so it became part of the US Constitution.



## Principles of the Constitution

Page 9

### Comparing National and New York State Branches

LEVEL OF GOVT.	EXECUTIVE	LEGISLATIVE	JUDICIAL
National gov. capital is located in: <b>Washington, DC</b>	<b>President</b>	<b>US Senate and House of Reps</b>	<b>Federal Court Supreme Court</b>
State gov. capital is located in: <b>Albany</b>	<b>Governor</b>	<b>State Senate and State Assembly</b>	<b>State Court</b>

### Positions in National Government:

President: **Barack Obama**

Vice President: **Joe Biden**

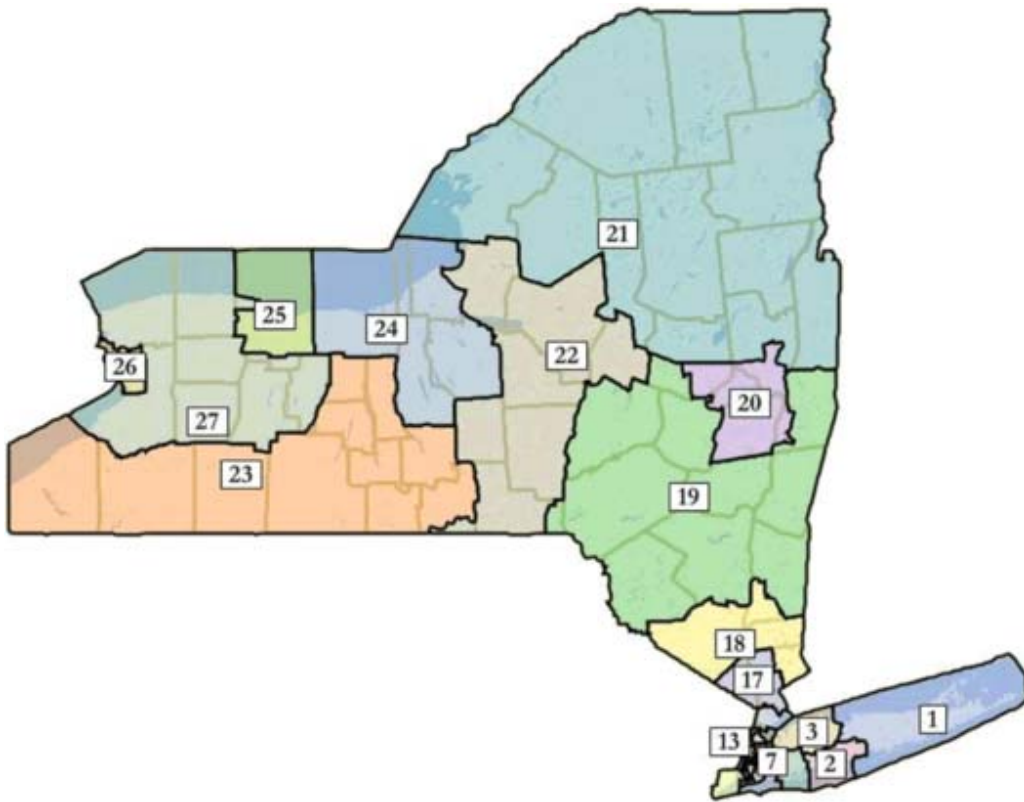
US Senators from New York: **Charles Schumer and  
Kirsten Gillibrand**

US Representatives: **Richard Hanna (22<sup>nd</sup> district) and  
 Tom Reed (23<sup>rd</sup>)**

Two most-recently added Supreme Court judges:

**Sonia Sotomayer (2009) and Elena Kagan (2010)**

## Principles of the Constitution



There are NINE Supreme Court Justices



The Roberts Court, Back row (left to right): Sonia Sotomayor, Stephen G. Breyer, Samuel A. Alito, and Elena Kagan. Front row (left to right): Clarence Thomas, Antonin Scalia, Chief Justice John G. Roberts, Anthony Kennedy, and Ruth Bader Ginsburg

Only 8 NOW - Justice Scalia died and has not been replaced



## Principles of the Constitution

### Positions in NY State Government

Governor: Andrew Cuomo

Your state senator: Fred Akshar, 52nd district

Your state assemblyman: Donna Lupardo (123rd Assembly District)

### Local government:

County Executive: Debbie Preston (Broome County)

Town of Vestal Supervisor: John Schaffer

Vestal Town Councilmen: Shoba Agneshwar, Patty Fitzgerald,

Total = 4 Francis Majewski, Sue Messina

## *Constitutional Principles*

Homework: *Read page 7 in packet*

## Principles of the Constitution

Popular Sovereignty	
Limited Government	
Separation of Powers	
Checks and Balances	
Federalism	
Judicial Review	

1. **The people are the source of all power.**
2. The President is responsible for executing, enforcing, and administering the law.
3. Congress must have a 2/3 vote in each house to override a veto.
4. This practice was established in Marbury v Madison in 1803.
5. "Congress shall make no law . . ."
6. Education requirements vary from state to state.

page 5 in packet

Popular Sovereignty	
Limited Government	
Separation of Powers	
Checks and Balances	
Federalism	
Judicial Review	

7. Only Congress has the power to declare war.
8. Presidential appointees are subject to Senate approval.
9. "We the People of the United States . . ."
10. The rule of law.
11. In Pennsylvania, citizens pay both a state and federal income tax.
12. Government may exercise only those powers delegated to it.

## Principles of the Constitution

Popular Sovereignty	
Limited Government	
Separation of Powers	
Checks and Balances	
Federalism	
Judicial Review	

13. Federal courts may declare illegal any government action violating the Constitution.
14. Government can govern only with the consent of the governed.
15. All treaties made by the President must be ratified by the Senate.
16. The Supreme Court has voided more than 900 state laws as unconstitutional.
17. Powers not specifically given to the federal government by the Constitution are retained by the states.

### The Unwritten Constitution

#### The Cabinet:

Department of Agriculture  
Department of Commerce  
Department of Defense  
Department of Education  
Department of Energy  
Department of Health and Human Services  
Department of Homeland Security  
Department of Housing and Urban Development  
Department of the Interior  
Department of Justice  
Department of Labor  
Department of State  
Department of Transportation  
Department of the Treasury  
Department of Veterans Affairs



## Principles of the Constitution

### Electoral College Promise

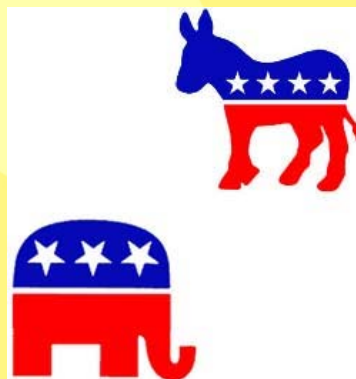
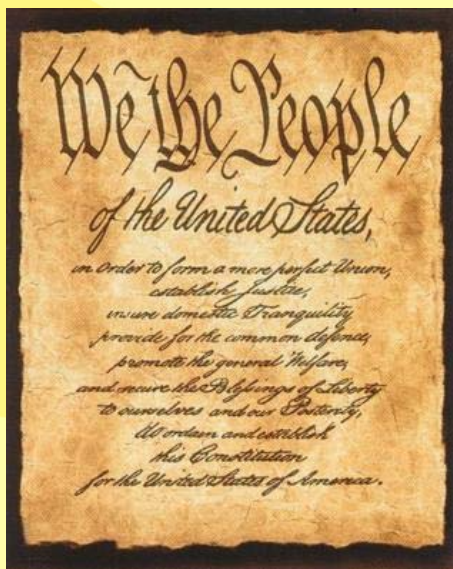
*It was equally desirable, that the immediate election should be made by men most capable of analyzing the qualities adapted to the station, and acting under circumstances favorable to deliberation, and to a judicious combination of all the reasons and inducements which were proper to govern their choice. A small number of persons, selected by their fellow-citizens from the general mass, will be most likely to possess the information and discernment requisite to such complicated investigations. It was also peculiarly desirable to afford as little opportunity as possible to tumult and disorder. This evil was not least to be dreaded in the election of a magistrate, who was to have so important an agency in the administration of the government as the President of the United States. But the precautions which have been so happily concerted in the system under consideration, promise an effectual security against this mischief.*



Alexander Hamilton - *The Federalist Papers*

### Political Parties:

*what role do they play?*



## Principles of the Constitution

### Congressional Committees

House of Representatives	Senate	Joint
<ul style="list-style-type: none"><li>• Agriculture</li><li>• Appropriations</li><li>• Armed Services</li><li>• Budget</li><li>• Education and the Workforce</li><li>• Energy and Commerce</li><li>• Ethics</li><li>• Financial Services</li><li>• Foreign Affairs</li><li>• Homeland Security</li><li>• House Administration</li><li>• Intelligence (Permanent Select)</li><li>• Judiciary</li><li>• Natural Resources</li><li>• Oversight and Government Reform</li><li>• Rules</li><li>• Science, Space, and Technology</li><li>• Small Business</li><li>• Transportation and Infrastructure</li><li>• Veterans' Affairs</li><li>• Ways and Means</li><li>• (Whole)</li></ul>	<ul style="list-style-type: none"><li>• Aging (Special)</li><li>• Agriculture, Nutrition and Forestry</li><li>• Appropriations</li><li>• Armed Services</li><li>• Banking, Housing, and Urban Affairs</li><li>• Budget</li><li>• Commerce, Science and Transportation</li><li>• Energy and Natural Resources</li><li>• Ethics (Select)</li><li>• Environment and Public Works</li><li>• Finance</li><li>• Foreign Relations</li><li>• Health, Education, Labor, and Pensions</li><li>• Homeland Security and Governmental Affairs</li><li>• Indian Affairs</li><li>• Intelligence (Select)</li><li>• Judiciary</li><li>• Rules and Administration</li><li>• Small Business and Entrepreneurship</li><li>• Veterans' Affairs</li></ul> <small>(click here for complete list with subcommittees)</small>	<ul style="list-style-type: none"><li>• (Conference)</li><li>• Economic</li><li>• Library</li><li>• Printing</li><li>• Taxation</li></ul>

### Term Limits for President

No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more that two years of a term to which some other person was elected President shall be elected to the office of President more than once.

**XXII Amendment - Ratified in 1951**

George Washington - 2 terms

Franklin Delano Roosevelt - 4 terms (died in office)

Good idea or not?



# Supreme Court Cases

Entrance Task: Pick up a blue Supreme Court case booklet before you sit down

**(Please do not write on them)**

Today: Landmark Supreme Court cases and the Bill of Rights

Homework: None



Classwork packet - pages 12-13



\* Using the information in the Supreme Court Case packet, complete the matrix on landmark cases relating to the Bill of Rights.







Homework:None




The Bill of Rights and Supreme Court Decisions

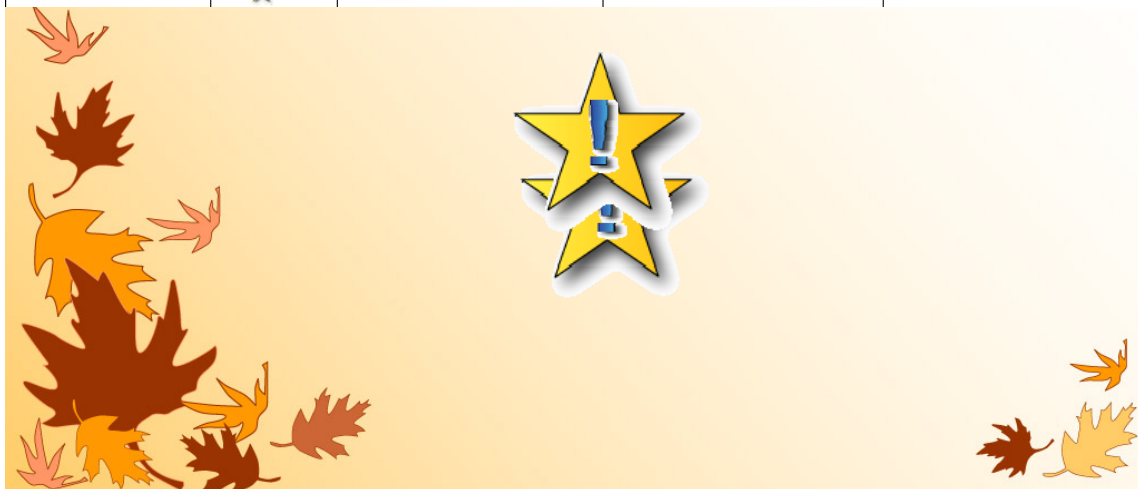
Case	Amendment & Right	Background	Decision	Impact
W. VA State Board of Ed v. Barnette (1943)	1 <sup>st</sup>  Civil Liberties 	* W Va. school required students to salute & pledge flag * Barnette (Jehovah's Witness) challenges Board of Ed.	* 6-3 students may not be required to salute & pledge flag	* Students' civil liberties protected
Mapp v. Ohio (1961)	  4 <sup>th</sup> No unreason - able search & seizure	Police entered Mapp's home looking for a bomber and illegal gambling materials and found illegal porn	Rule in Mapp's favor and said her 4th amendment rights were violated	illegally gained evidence may not be used against a defendant

## Principles of the Constitution




Case	Amendment & Right	Background	Decision	Impact
<b>Engle v. Vitale (1962)</b>   prayer	1 <sup>st</sup>  Ban on establish-ment of religion 	NYS Board of Regents required students to recite a prepared prayer. Parents challend it as contrary to their beliefs. State court upheld the prayer	Court ruled that the prayer violated the Establishment Clause of the 1st Amendment	Court later banned Bible reading in public school assemblies or classrooms
<b>Hazelwood v. Kuhlmeier (1988)</b>	1 <sup>st</sup>  Freedom of Press	Student newspaper was censored by the principal, violating their 1st Amendment rights	Student rights not the same in school as outside Newspaper is the school's and student writers are not protected under the 1st Amendment	Students do not have full access to 1st Amendment rights when on school property. Officials may restrict speech based on "legitimate pedagogical concerns"



Case	Amendment & Right	Background	Decision	Impact
<b>N.J. v. T.L.O. (1985)</b>  No unreasonable search & seizure 	4 <sup>th</sup> No unreasonable search & seizure 	* Assistant Vice Principal searches student's purse & discovers cigarettes, rolling papers, marijuana, pipe, plastic bags, money, index card of students owing money, & two letters implicating marijuana dealing	* School officials only need "reasonable suspicion" rather than "probable cause" to search students	* 1995 decision extended search rights to allow drug testing of student athletes
<b>Miranda v. Arizona (1966)</b>	5 <sup>th</sup> Right to counsel & protection against self-incrimination 	* Defendants not given full & effective warning of rights while in police custody	* Prosecutors could not use statements from custodial interrogation unless defendants warned of rights	* Defendants Mirandized by police



## Principles of the Constitution

Case	Amendment & Right	Background	Decision	Impact
<b>Gideon v. Wainwright (1963)</b>	6 <sup>th</sup> Rights of the accused 	* Gideon defended himself after being denied a request for free counsel	* Right to counsel is fundamental to a free trial	* Protected the rights of accused criminals
<b>Escobedo v. Illinois (1964)</b>	6 <sup>th</sup> Trial by Jury 	* Escobedo arrested for murder & denied access to his lawyer	* Exclusionary rule extended to include illegal confessions	* Rights of accused protected
<b>Furman v. Georgia (1972)</b>	8 <sup>th</sup> Protection against cruel & unusual punishment 	* Furman accidentally kills resident of home he was breaking into & was sentenced to death	* In this case, death penalty was cruel & unusual * States must have clear & consistent rules for apply death penalty uniformly	* State & national legislature must rethink their statutes for capital offenses



Homework: none



## Principles of the Constitution

“Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country.”



### Amendment I      ***Freedom of Religion, Speech, Press, Assembly, and Petition***

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof (refers to *freedom of worship*); or abridging (reducing) the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress (correction) of grievances.

### Amendment II      ***Right to Bear Arms***

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed (weakened).



**Principles of the Constitution**